

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

## OPINION AND ORDER

At the final pretrial conference, the court took under advisement the plaintiff's objections to the court's implementation of two of the recommendations of the Seventh Circuit Bar Association's American Jury Project Commission Project. The court now sustains one of those objections and overrules the other.

The Jury Project recommends the use of interim summations. The plaintiff objects, desiring the benefit of presenting her evidence first without interruption by the defendant (save for cross-examination). The court believes that interim summations can assist jury comprehension greatly, and so improve the quality of jury decision-making, in appropriate cases. This trial, however, is not expected to be a long one. The court has set aside 5 days for the trial; if the court rules on the Quake evidence in accordance with its stated expectations, the trial should be completed in fewer than 5 days. In so brief a trial, the benefits of interim summations are limited. Those benefits are too slight to overcome a party's objection that she wishes to preserve what she sees as the benefit of what the rules of procedure provide her. The court SUSTAINS the plaintiff's objection to the use

of interim summations at trial.

The Jury Project recommends the use of 12-person juries. The plaintiff objects, saying she should not have to persuade more than 6 people to prevail. A larger jury increases a jury's representation of the community and increases public participation in what is a uniquely democratic institution. Some 3 decades ago, the federal courts reduced the size of civil juries, not to ease the burden of proof on plaintiffs, but to reduce cost. While cost always remains a factor, we are now in a time of few civil jury trials, rendering minimal the incremental cost of a 12-person civil jury. On this point, the benefits of a 12-person jury far outweigh any legitimacy in the plaintiff's objection, so the court OVERRULES the plaintiff's objection to use of a 12-person jury in this trial.

SO ORDERED.

ENTERED: March 8, 2007

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/s/ Robert L. Miller, Jr.  
Chief Judge  
United States District Court